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Indiana Economic Development Corporation

Adam Packer
Assistant General Counsel
Indiana Gaming Commission

One North Capitol, Suite 700
Indianapolis, Indiana 46204
Tel 317.232.8800
Fax 317.232.4146
www.AccelerateIndiana.com

Dear Mr. Packer:

Pursuant to IC 4-22-2-28, the Indiana Economic Development Corporation ("IEDC") has reviewed the economic impact analysis for small business associated with rule changes proposed by the Indiana Gaming Commission ("Commission") and contained in LSA Document 08-432. The proposed rule applies to limited groups of 2,840 qualified organizations that conduct charitable gaming events. Indiana Code specifies the types of organizations that may become qualified and therefore, may conduct charity gaming events. The proposed rule creates a \$25 fee for amendments to licenses, establishes conditions for a refund of a charity gaming license fee, and requires an organization obtain identifying information of winners of flare card games over \$50. The rule also requires an organization that changes locations of its annual charity game night or annual bingo license to publish notice in the newspaper and maintain a ledger in which the organization must collect identifying information about winners of prizes in winner take all drawings. The rule also makes several ministerial and administrative changes.

It is difficult to determine the number of small businesses that will be impacted by this rule as defined by IC 4-22-2.1-4. Many of the organizations impacted may not actually meet the definition of an Indiana small business. Since all qualified organizations impacted by this rule are not-for-profit entities, the very nature of these organizations calls into question whether these organizations should be included in the group of small businesses contemplated by the statute. In addition, some of these organizations are subsidiaries of national charitable organizations that do not have a principle place of business in Indiana. The Indiana subsidiary may not be independently operated. Finally, some of the qualified organizations generate gross receipts of over \$5 million. Three of the organizations affected by the rule generate over \$5 million in charity gaming receipts alone.

Since it is difficult to determine what organizations may meet the definition of small business, for the purpose of this analysis all qualified organizations are considered to be classified as small businesses. As a result, the projected impact on small business may be significantly inflated versus the actual impact on small businesses.

The proposed rule requires flare card winners to provide their name, signature, date of birth, and some form of identification such as a driver's license or a state issued identification card to redeem a prize valued at fifty-one dollars (\$51) or more. This information is currently required of seal card winners.

Flare cards may be sold under all but one type of license issued by the Commission. Currently, all organizations which have a charity gaming license may conduct games involving flare cards. Flare cards are purchased directly from manufacturers and distributors, and there is no limit regarding the

number of games with flare or seal cards purchased. Accordingly, the Commission has no knowledge regarding how many flare cards are purchased and used in allowable events.

Any potential economic impact imposed on small businesses associated with this portion of the proposed rules will result from cost associated with training volunteers to collect and maintain information, as well as costs associated with the storage of this information. Since volunteers are currently trained to collect this information for certain seal card winners, any additional training required for collection of the same information for flare card winners should be minimal. Furthermore, the Commission holds approximately twelve (12) free training sessions a year which any interested person may attend. Volunteers may receive training on the collection of this information at those seminars.

Previous assessments of the fiscal impact on small businesses resulting from an extension of record retention indicate that increases in record retention requirements for organization result in minimal to no additional costs to the organization. Of the organizations interviewed, ninety-one percent (91%) indicated that maintaining additional records would result in no cost to the organization. Four and one-half percent (4.5%) indicated maintaining additional records would result in additional costs, but were unable to assess the dollar amount. Those numbers are applicable to the current proposed rule change. Therefore, while the Commission is unable to precisely determine the fiscal impact this portion of the proposed rule will have on qualified organizations, the cost is anticipated to be minimal.

The proposed rule requires all organizations conducting "winner take all" drawings under an annual pull tab, punchboard, and tip board ("PPT") license to maintain a ledger in which the organization records the date of each drawing, the winner's name, signature, date of birth, some form of identification such as a driver's license or state identification card, and the amount awarded to each individual. The ledger must be legibly printed and must be available upon request.

Currently, the Commission has issued 733 annual PPT licenses-the only license which allows an organization to conduct winner take all drawings. The main activity endorsed under an annual PPT license is the sale of pull tabs, punch boards, and tip boards. An organization with an annual PPT license is not required to conduct a winner take all drawing, but is allowed to do so. Those who choose to do so must maintain the aforementioned information.

The economic impact associated with this portion of the proposed rule results from training required to teach volunteers to maintain the ledger and collect the required information. As referenced above, the Commission provides approximately twelve (12) free training sessions a year which are open to the public. Organizations are encouraged to send volunteers responsible for collecting this information to the seminars for any training needed for compliance with the administrative rule. Accordingly, the Commission anticipates that any administrative cost related to this portion of the proposed rule is expected to be negligible.

Pursuant to IC 4-32.2-4-5(c) and IC 4-32.2-4-7.5(c), the first time a qualified organization obtains an annual bingo or annual charity game night license, the organization is required to publish notice twice in a newspaper in the county in which the organization is located and the county in which the

event will be conducted. Only a civic or veteran's organization, having been in existence for at least ten (10) years, may obtain this type of license, and is therefore required to post this notice. The proposed rule requires an organization changing the location of its annual bingo or charity game night license to publish this notice of the new location in the appropriate newspaper.

Currently, 906 organizations hold an annual bingo license and 175 organizations hold an annual charity game night license. The economic impact associated with this portion of the proposed rule results from training required to teach volunteers to publish notice when the location of these events changes and the cost associated with posting this notice. As referenced above, the Commission provides approximately twelve (12) free training sessions a year which are open to the public. Organizations are encouraged to send volunteers responsible for collecting this information to the seminars for any training needed for compliance with the administrative rule. Accordingly, the Commission anticipates that any administrative cost related to this portion of the proposed rule will be negligible.

Pursuant to IC 4-32.2-4-2, a qualified organization must obtain a license to conduct an allowable event. Each license must state the date, time, and location of the allowable event. Charity gaming licenses also list the name of all operators authorized to assist in conducting allowable events for the qualified organization. Each time the date, time, location, or names of operators is changed, the Commission is required to reissue a license, which normally requires additional document review and processing, and which may require additional investigation. The proposed rule requires the Commission to collect a twenty-five dollar (\$25) fee for amendments made to licenses previously issued.

In 2007, the Commission processed forty-seven (47) license amendments. Assuming the number of amendments remains consistent, the estimated cost of license amendments fees is one thousand one hundred seventy five dollars (\$1,175) ($47 \times \25)

Indiana Code 4-32.2-6-2, 3(c) and 68 IAC 21-2-6 establish the license fees for initial and renewal licenses for both single and annual events. The proposed rule provides that if an organization rescinds single allowable event prior to the issuance of the license, the organization will be awarded a refund of the license fee, minus the lesser of a fifty dollar (\$50) processing charge or fifty percent (50%) of the applicable license or renewal fee. The proposed rule also provides that if an organization rescinds an annual event prior to the effective date of the license, the Commission shall refund the lesser of a fifty dollar (\$50) processing charge or fifty percent (50%) of the applicable license or renewal fee.

Although no statute or administrative rule previously required refunds or established parameters for the issuance of refunds, a total of 158 refunds were awarded in FY07 totaling one hundred forty six thousand eight hundred seventy five dollars (\$146,875). Assuming the number of license cancellations remains consistent, the Commission estimates qualified organizations will receive refunds totaling seventy three thousand four hundred thirty eight dollars (\$73,438) under the proposed rule. However, as no regulatory guidance with respect to refunds of license fees required by IC 4-32.2-6-3 existed, the Commission does not consider the reduction of refunds to be a cost imposed on small businesses.

In addition to the administrative costs outlined above, the Commission estimates that the cost of the ledger required to be maintained by qualified organizations holding an annual PPT license who engage in winner take all drawings is approximately ten dollars (\$10) per ledger. Currently, there are 838 qualified organizations holding an annual PPT license. Assuming that all 838 organizations also engage in winner take all drawings, the estimated economic impact of this portion of the proposed rule is eight thousand three hundred eighty dollars (\$8,380) (\$10 x 838 organizations).

As previously referenced, IC 4-32.2-4-5(c) and IC 4-32.2-4-7.5(c), requires an organization obtaining its first annual bingo or annual charity game night license to publish notice regarding that license application. The apparent purpose of this statutory requirement is to allow members of the community to voice objection to the existence of these types of allowable events, which occur on an ongoing basis, in their respective communities. The proposed rule requires an organization changing location of its event to publish notice of the new location.

The Commission contacted a random sample of the one thousand eighty one (1,081) organizations which might be subject to this proposed rule to conduct a survey for purposes of determining the cost to organizations. As a result of that survey, the Commission has determined that the average cost of publishing notice for a new location is \$53.12 per organization. It is important to note that not all organizations currently holding an annual bingo or annual charity game night license will have to post notice; this rule applies only to those organizations changing the location of their event. Since the Commission has no way of determining which organizations will choose to change locations the Commission is unable at this time to determine the fiscal impact of this portion of the proposed rule.

Based on the foregoing, the total annual increase in costs which can currently be assessed, including administrative costs, to Indiana small businesses as a result of the proposed rule, will be approximately nine thousand five hundred fifty five dollars (\$9,555). As this calculation is based in part on assumptions, including the assumption that all qualified organizations are small businesses, the actual impact on small businesses may be substantially less.

The IEDC does not object to the fiscal impact associated with this proposed rule. The proposed rule does not impose requirements beyond those which are provided for by statute. The estimated cost is not expected to be substantial, and the Commission has established programs that may help reduce costs for affected entities.

If you have any questions about the comments contained herein please contact me at 232-8962 or rasberry@iedc.in.gov.

Regards,



Ryan Asberry

Assistant Vice President